

§ 159-196. Approval by Commission.

(a) Approval Required. – If either of the following conditions is met, a governmental unit shall not enter into a swap agreement unless the Commission first approves the governmental unit's entering into the swap agreement:

- (1) The unit is a unit of local government as defined in G.S. 159-44, a municipality as defined in G.S. 159-81, or a joint agency as defined in G.S. 159B-3.
- (2) The sale, issuance, or incurrence of the obligations with respect to which the swap agreement is entered into is subject to the approval of the Commission.

(b) Factors. – The Commission may consider all of the following factors in determining whether to approve the swap agreement:

- (1) The nature and amount of the outstanding debt of the governmental unit proposing to enter the swap agreement.
- (2) The governmental unit's debt management procedures and policies.
- (3) To the extent applicable, the governmental unit's compliance with the Local Government Budget and Fiscal Control Act.
- (4) Whether the governmental unit is in default in any of its debt service obligations.
- (5) The credit rating of the governmental unit.

(c) Amendments. – If a swap agreement is subject to approval by the Commission pursuant to this section and is approved, then the governmental unit shall not enter into any amendment to the swap agreement that terminates or changes the time period covered by the swap agreement, changes the interest rate calculation method under the swap agreement, or changes the notional amounts covered by the swap agreement without the prior approval of the Secretary of the Commission.

(d) Approval Not Required. – A swap agreement is not subject to approval by the Commission except as provided in this section. This section does not require the approval of the Commission of a swap agreement entered into by a private entity receiving the benefit of financing through the issuance of obligations by a governmental unit. (2003-388, s. 4.)